

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

JOSEPH HOWARD DUCKWORTH,

Plaintiff,

v.

ROBERT RAPP,

Defendant.

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No. 2:15CV49 CEJ

MEMORANDUM AND ORDER

Plaintiff, a prisoner, seeks leave to proceed in forma pauperis in this civil action under 42 U.S.C. § 1983. Having reviewed plaintiff's financial information, the Court assesses a partial initial filing fee of \$1.00. 28 U.S.C. § 1915(b).

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. To state a claim for relief under § 1983, a complaint must plead more than "legal conclusions" and "[t]hreadbare recitals of the elements of a cause of action [that are] supported by mere conclusory statements." *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009). A plaintiff must demonstrate a plausible claim for relief, which is more than a "mere possibility of misconduct."

Plaintiff brings suit against Robert Rapp, a prosecutor for Ralls County. Plaintiff alleges that Rapp filed fraudulent documents in his Ralls County criminal action¹ indicating that he had an auto theft charge from another state. He claims that as a result of the false documents, his bond on the Ralls County case was increased and he was required to rely on a public defender. Plaintiff also says Rapp also introduced the documents at sentencing.

¹ *Missouri v. Duckworth*, No. 11RL-CR00025-01 (Ralls County).

Prosecutors are absolutely immune from civil rights actions. *Imbler v. Pachtman*, 424 U.S. 409, 427 (1976). There is no fraud exception to prosecutorial immunity. *E.g., In re NYSE Specialists Securities Litigation*, 503 F.3d 89, 101 (2d Cir. 2007). As a result, this action is legally frivolous and must be dismissed under 28 U.S.C. § 1915(e).

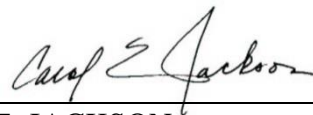
Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [ECF No. 2] is **GRANTED**.

IT IS FURTHER ORDERED that the plaintiff must pay an initial filing fee of \$1.00 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

An Order of Dismissal will be filed separately.

Dated this 17th day of July, 2015.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE